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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---|---|
| 10/710,975 | 08/16/2004 | Roger E. Weiss | FF2 | 9391 |
| <div>23699 7590 01/07/2008</div> <div>CLAUSEN MILLER, P.C SUITE 1600 10S. LASALLE STREET CHICAGO, IL 60603</div> | | | | |
| | | | <div>EXAMINER</div> <div>DONNELLY, JEROME W</div> | |
| | | | <div>ART UNIT</div> <div>3764</div> | <div>PAPER NUMBER</div> |
| | | | <div>MAIL DATE</div> <div>01/07/2008</div> | <div>DELIVERY MODE</div> <div>PAPER</div> |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/710,975

Applicant(s)

WEISS ET AL.

Examiner

Jerome W. Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ____ is/are allowed. 1-11
- 6) ☒ Claim(s) ____ is/are rejected. 12-14
- 7) ☒ Claim(s) ____ is/are objected to. 15 and 16
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. -
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

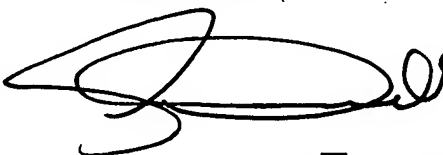
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.



JEROME DONNELLY
PRIMARY EXAMINER

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Claims 1-11 allowed.

Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by Lary et al.

Lary et al discloses a device comprising: a device comprising a pair of horizontally positioned legs, a pair of integral support arms (12) attached to said legs, a horizontal exercise bar (102) mounted to support arm (24) and a backboard (28) attached to said support arm (24) and said backboard (28) extending downwardly.

In the claims drawings and the specification it is not clear as to where and how the exercise bar of claim 12 line 5 is free standing.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lary et al.

In regard to claims 12-16 the examiner notes that although Lary et al discloses several of his cross members as being integral components of his legs and arm members, it is well known to manufacture extents/legs of a frame member of separate components vs integral components.

In response to the applicant's claims them examining the claims with the knowledge or intent to modify the frame member of Lary et al wherein each and every longitudinal extent of the frame member is separate.

In regard to claim 12, Lary et al modified discloses a device comprising a pair of legs (11) a pair of arms (24) including a horizontal exercise bar mounted thereto and a back board attached to said support arm, through element (12) and said backboard extending downwardly toward a support surface.

In regard to claim 13, element 24 of Lary et al support arm (24) is positionable toward a distal end of each leg member (11) of Lary et al.

In regard to claim 14, the examiner draws the applicants attention to fig. 2 showing two support arms a cross member connecting the legs intermediate the ends and an upper cross bar connecting the support arms.

Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being

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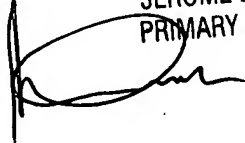
indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to where it is disclosed that the backboard of claim 12, is attached to said support arm and extends to the floor to support the exercise bar.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall device of Millington and Nissen.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

 JEROME DONNELLY
PRIMARY EXAMINER